

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2005-002404

05/23/2006

HONORABLE GLENN M. DAVIS

CLERK OF THE COURT
L. Muhammad
Deputy

FILED: 05/24/2006

STEVEN LOEHR

MARIA CRIMI SPETH
ADAM S KUNZ

v.

MARZOCCHI U S A, et al.

WENDI A SORENSEN

STEVEN L ENGLAND
JOHN N WILBORN
ROBERT H WILLIS

MINUTE ENTRY

9:15 a.m. This is the time of Status and Scheduling Conference.

Appearing telephonically are Maria Crimi Speth and Adam S. Kunz on behalf of Plaintiff; Wendi A. Sorensen on behalf of Defendant Marzocchi U.S.A.; Steven L. England on behalf of Defendants Peter Perauelt and Rage Cycles; John N. Wilborn on behalf of Defendant Vigor Sports Inc.

Court reporter: Lynn Cronin.

Court and counsel discuss the status of the case.

Counsel advise the Court that the settlement negotiations were unsuccessful.

Pursuant to stipulation and agreement of counsel,

EXPERTS and their opinions shall be disclosed on or before **July 31, 2006**.

IT IS ORDERED setting this matter for a 10-day Jury Trial and a Pretrial Management Conference below.

9:29 a.m. Hearing concludes.

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JURY TRIAL SET

IT IS ORDERED as follows:

1. Setting a **FINAL PRETRIAL MANAGEMENT CONFERENCE on January 18, 2007 at 8:45 a.m. (45 minutes) in this division. All parties must appear in person and cannot appear telephonically.**
2. Setting a **10-day JURY TRIAL for January 30, 2007 at 9:30 a.m. in this division.**

DUTIES PRIOR TO THE FINAL PRETRIAL CONFERENCE

3. **MOTIONS IN LIMINE.** All Motions in Limine shall be filed no later than **5:00 p.m. on November 30, 2006 (60 days prior to Trial)** and such motions must meet the test of *State v. Superior Court*, 108 Ariz. 396, 397; 499 P.2d 152 (1972): The primary purpose of a Motion in Limine is to avoid disclosing to the jury prejudicial matters which may compel a mistrial. See also, Ariz. R. Evid. 103(c). A written response to a Motion in Limine may be filed no later than ten (10) calendar days thereafter. The court may rule on Motions in Limine without oral argument. No replies shall be filed. The parties must comply with Rule 7.2(a) Ariz.R.Civ.P., prior to filing any Motion in Limine.
4. **JOINT PRETRIAL STATEMENT.** Counsel shall deliver to the Trial Judge no later than **5:00 p.m. on January 11, 2007 (7 days before the Trial Management Conference)** a copy of the **Joint Pretrial Statement** signed by all counsel.
 - a) **Deposition Summary:** In addition to the information required by Rule 16(d), counsel shall at the Final Pretrial Conference provide to the Court copies of any deposition transcripts to be read to the jury. The offering party will highlight the portions to be read, the other side will highlight Rule 106 additions, and any objections for the court to rule on will be clearly marked in the margin. The parties are encouraged to agree on narrative summaries of deposition testimony, using brief question and answer excerpts only to emphasize very important testimony or to cover areas of testimony that cannot be summarized to the satisfaction of all counsel. No stipulation should be unreasonably refused.
 - b) **Final Trial Witnesses:** In addition to the information required by Rule 16(d), the Joint Pretrial Statement shall include an exhibit titled: **Final Trial Witness List**. This list shall contain the name of each witness a party actually intends to call at Trial, the day on which they intend to call each witness and the **estimated time needed for direct, cross and re-direct examination**.

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5. **JURY INSTRUCTIONS; VOIR DIRE QUESTIONS.** Counsel shall meet and agree on as many proposed jury instructions as possible. Counsel shall deliver to the Trial Judge, with their Joint Pretrial Statement, copies of:
- a) Proposed voir dire questions.
 - b) A joint set of agreed-upon preliminary and final jury instructions and **proposed forms of verdicts.**
 - c) Separate sets of requested instructions that have not been agreed upon. Please read *Rosen v. Knaub*, 175 Ariz. 329; 85 P.2d 381 (1993) and the RAJI Civil 3d Statement of Purpose and Approach before preparing requests for non-RAJI instructions.

Recommended Arizona Jury Instructions (RAJI) need not be typed and may be requested in the following manner: RAJI 3d Standard 1 - Duty of Jurors. Non-RAJI instructions should be typed. Each instruction should cover only one subject.

6. **DUTIES AT FINAL PRETRIAL CONFERENCE**

Counsel shall be prepared to discuss:

- a) Time limits in voir dire, opening statements, examination of witnesses and closing arguments.
 - b) Stipulations for the foundation and authenticity of exhibits.
 - c) Preliminary jury instructions, juror notebooks (counsel shall bring any proposed juror notebooks to the conference), mini opening statements and voir dire.
 - d) Agreed-upon deposition summaries and excerpts from deposition transcripts and the editing of any videotaped depositions.
 - e) Use of Short-Trial or Summary Jury Trial.
 - f) Any special scheduling or equipment issues.
7. Counsel shall call the division clerk at least **two (2) weeks** before Trial to make arrangements for delivering exhibits. The exhibits will be marked serially as they are listed in the Joint Pretrial Statement – Plaintiff's first, Defendant's second. Please advise the clerk, by signed stipulation or on the record referring specifically to the Joint Pretrial

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Statement, which exhibits may be marked directly into evidence. Counsel shall also meet and confer to eliminate any duplicate exhibits.

8. One day's jury fees will be assessed unless the court is notified of settlement before 2:00 p.m. on the judicial day before the Trial. Counsel are reminded to promptly notify the Court of any settlement pursuant to Rule 5.1(c), Ariz.R.Civ.P.
9. The dates set forth in this Order are FIRM dates and will not be extended or modified by this Court absent good cause. Lack of preparation will not ordinarily be considered good cause.

**HONORABLE GLENN M. DAVIS
MARICOPA COUNTY SUPERIOR COURT
EAST COURT BUILDING
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6th FLOOR, COURTROOM 611
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